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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 JOE J.W. ROBERTS, JR.,

9 Plaintiff,

10 v.

11 VILMA KHOUNPHIXAY, et al.,

12 Defendants.

Case No. 2:18-cv-00746-MJP-BAT

**ORDER DENYING MOTION TO
APPOINT COUNSEL**

13 Joe J.W. Roberts, Jr., who is proceeding *pro se* and *in forma pauperis* in this civil rights
14 action, has filed a motion to appoint counsel. Dkt. 24. For the following reasons, the Court
15 **DENIES** the motion.

16 Generally, a person has no right to counsel in a civil action. *See Campbell v. Burt*, 141
17 F.3d 927, 931 (9th Cir. 1998). The Court may appoint counsel for indigent civil litigants under
18 28 U.S.C. § 1915(e)(1), but only under “exceptional circumstances.” *Agyeman v. Corrections*
19 *Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). When determining whether “exceptional
20 circumstances” exist, the Court considers “the likelihood of success on the merits as well as the
21 ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues
22 involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).
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1 Mr. Roberts states he requires counsel because he is indigent and has been unable to
2 retain counsel on his own, he has limited access to a law library and to paper and envelopes, and
3 he is unable to pay for expert witnesses. He claims that he is likely to prevail on the merits of his
4 claim because defendants did not file a motion to dismiss and despite his history of depression
5 and suicidal tendencies, of which defendants were aware, they continued to place him in a unit
6 where he could not be observed to prevent further possible suicide attempts. Dkt. 24 at 1-4.

7 Mr. Roberts has not demonstrated the existence of “exceptional circumstances” to
8 support his request for appointment of counsel; he is plainly capable of articulating his claims
9 *pro se*; and, he has not demonstrated that his allegations involve any sort of complex case or that
10 he is likely to succeed on the merits.

11 The pleadings on file demonstrate Mr. Roberts is familiar with the court rules and law
12 pertaining to his claims. He cites to appropriate cases to support his arguments. Dkt. 24 at 1-3.
13 Mr. Roberts’ complaints of the lack of library time and/or resources, paper and supplies, limited
14 knowledge and financial resources are not exceptional circumstances as Mr. Roberts fails to
15 show how this places him in a position any different from other *pro se* prisoner plaintiffs. Thus
16 far, Mr. Roberts has shown an ability to articulate his claims in a clear fashion to this Court.

17 In addition, this is not a complex case involving complex facts or law. The case involves
18 the question of whether defendants used excessive force in their treatment of Mr. Roberts in light
19 of his threats of self-harm and suicide. Because the claim turns largely on facts which have not
20 yet been fully developed, Mr. Roberts cannot demonstrate a likelihood of success on the merits
21 at this stage in the proceedings.

22 Appointment of counsel is therefore not justified at this time, and the Court **DENIES** the
23 motion (Dkt. 24).

1 The Clerk shall provide a copy of this Order to plaintiff and counsel for defendants.

2 DATED this 17th day of September, 2018.

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5 BRIAN A. TSUCHIDA
6 Chief United States Magistrate Judge
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